

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

IN RE:)
) CASE NO. 16-10556-BFK
TERENCE MICHAEL HYNES,)
KATHRYN WILSON HYNES,)
) Chapter 11
Debtors.)

**MOTION FOR ORDER REQUIRING BURTON J. HAYNES TO
APPEAR AND BE EXAMINED PURSUANT TO BANKRUPTCY RULE 2004
AND TO PRODUCE CERTAIN MATERIALS AT THE EXAMINATION**

The United States of America, on behalf of the IRS, moves for entry of an order pursuant to Fed. R. Bankr. P. 2004, directing Burton J. Haynes to appear for examination under oath and to produce certain documents.

NOTICE OF OPPORTUNITY TO OBJECT

Pursuant to Local Rule 2004-1, parties have 7 days from the date of service of this motion to object to the motion.

MEMORANDUM

Debtors filed a bankruptcy petition seeking relief under Chapter 11 on or about February 18, 2016.

The Disclosure of Compensation filed with the Petition indicates that Haynes provided the \$2,400 received by Debtor's counsel and the \$1,717.00 filing fee. These

amounts came “from money paid to Haynes by the Debtors.” ECF No. 1 at 13.

According to Debtor’s Form 107 (Statement of Financial Affairs), within 1 year before this bankruptcy petition was filed, Debtors paid the Haynes \$4,800 in “Legal fees in connection with IRS collection matters.” ECF No. 17, at 34. The dates of of these payments to Haynes are not disclosed. *Id.*

At the 341 Meeting of Creditors, Debtor Terrence Hynes (who is an attorney) was not able to explain whether this money from Haynes was a gift or a loan, or whether it was Debtor’s own money that Haynes held in trust. Haynes is not listed as a creditor on Debtors’ schedules.

Debtors filed a motion seeking to employ Haynes as tax counsel for the estate. ECF No. 27. Haynes’s declaration in support of the motion to employ does not specify in any detail his prior relationship with the Debtors except that he “represented the Debtors prior to the filing of their bankruptcy.” ECF No. 27-1. The United States, on behalf of the IRS, and the US Trustee have opposed the motion to employ Haynes.

Accordingly, the United States requests that the Court order Haynes to be examined under oath about his financial transactions with Debtors, any money held or is holding for Debtors, any money he owed or owes Debtors, any money Debtors owe or owed him, the source of funds used to pay the expenses of filing this bankruptcy case, any claim he may have against the estate, and any agreements regarding money between himself and Debtors.

In addition, the United States requests that this Court require Haynes to produce all documents evidencing any financial transactions or agreements between Haynes and

the Debtors, including but not limited to all documents relating to any money Haynes (or anyone on his behalf) received from Debtors (or anyone on their behalf) within one year of the bankruptcy petition, all documents relating to any money Debtors (or anyone on their behalf) received from Haynes (or anyone on his behalf) at any time, and the source of funds used to pay the expenses of filing this bankruptcy case.

Dated: April 26, 2016

CAROLINE D. CIRAULO
Acting Assistant Attorney General

/s/ Boris Kukso
BORIS KUKSO
Trial Attorneys, Tax Division
U.S. Department of Justice
P.O. Box 310
Washington, D.C. 20044
202-353-1857 (v)
202-307-0054 (f)
Boris.Kukso@usdoj.gov

Of Counsel:
DANA J. BOENTE
United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2016, a copy of foregoing MOTION FOR ORDER REQUIRING BURTON J. HAYNES TO APPEAR AND BE EXAMINED PURSUANT TO BANKRUPTCY RULE 2004 AND TO PRODUCE CERTAIN MATERIALS AT THE EXAMINATION has been sent by First Class US Mail to:

Terence & Kathryn Hynes
7004 Green Oak Drive
Mc Lean, VA 22101-1551
Debtors

Brian Andrew Tucci
7979 Old Georgetown Rd.
Suite 750
Bethesda, MD 20814
Debtor's Counsel

David E. Lynn
15245 Shady Grove Road,
Suite 465 North
Rockville, MD 20850
Debtor's Counsel

Burton J. Haynes,
9273 Old Keene Mill Road,
Burke, VA 22015
Deponent

Jack Frankel
Office of the U.S. Trustee
115 South Union Street, Ste. 210
Alexandria, VA 22314
US Trustee

/s/ Boris Kukso
BORIS KUKSO
Trial Attorney